

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS**

Shenzhen Dejiayun Network)	
Technology Co., Ltd.,)	
	Plaintiff,) Case No.: 1:21-cv-06607
v.)	
)) Dist. Judge Manish S. Shah
The Partnerships and Unincorporated)	
Associations Identified on Schedule)) Mag. Judge Jeffrey I. Cummings
“A”,))
))
	Defendants.)

Motion to Strike Plaintiff's Motion to Compel

NOW COME defendants Grande vente (Doe 6), MCKEYSONYRAS (Doe 11), T-USA (Doe 17), LAMODE (Doe 25), and YUCVELP Outlets (Doe 26) (collectively, “Defendants”), by and through their undersigned counsel, and in support of their Motion to Strike Plaintiff's Motion to Compel states as follows:

1. On March 8, 2022, the Court set September 8, 2022 as the close of fact discovery. [Dkt. 50].
2. On March 28, 2022 and August 25, 2022, the Court reestablished the September 8, 2022 deadline. [Dkts. 56, 72].
3. On September 6, 2022, the parties jointly moved for, and were granted, extensions of time for the Plaintiff to respond to Defendants' amended counterclaim and for Plaintiff to have until September 22, 2022 to bring any discovery motions. [Dkt. 73, 74].
4. On September 22, 2022, the parties jointly moved, again, for Plaintiff to have until September 29, 2022 to bring any discovery motions. [Dkt. 76].
5. On September 29, 2022, Plaintiff alone requested, and was granted, until October 6, 2022 to file any discovery motion. [Dkt. 79].

6. Plaintiff did not file a subsequent request for an extension of time to file discovery motions, and did not file its pending Motion to Compel until October 7, 2022, after the set deadline had passed. [Dkt. 81].
7. All discovery must have enforceable deadlines. Flint v. City of Belvedere, 791 F.3d 764, 768 (7th Cir. 2015). Parties who wait until the last minute to file motions to compel or seek deadline extensions are “playing with fire.” Spears v. City of Indianapolis, 74 F.3d 153, 157 (7th Cir. 1996). The “flames” here come from Fed. R. Civ. P. 16(b)(4), which allows a judge to modify a discovery schedule “only for good cause.” Ashok Arora v. Midland Credit Mgmt., et al., 2021 WL 3737695, at *1 (N.D. Ill. Aug. 23, 2021); *See also*, Fed. R. Civ. P. 6(b)(1)(B) (“When an act may or must be done within a specified time, the court may, for good cause, extend the time...on motion made after the time has expired if the party failed to act because of excusable neglect.”).
8. Plaintiff has failed to request an additional extension (even retroactively), explain the additional delay (despite calling its motion timely), or establish or even mention that it had good cause for filing the late motion. *See, e.g.*, Elayyan v. Sol Melia, SA, 571 F. Supp. 2d 886, 893 (N.D. Ind. 2008) (“Plaintiffs did not file a motion for leave to file their Responses after the deadline set by local and federal rules had expired, nor did Plaintiffs acknowledge in their Responses that the briefs were untimely. Moreover, Plaintiffs have not offered any basis for the Court to find that the untimely filing of the Responses is the result of excusable neglect. Therefore, the Court finds that Plaintiffs’ Responses are untimely and strikes the Responses.”); *Cf.*, Holleman v. Penfold, 2010 WL 2608285, at *1 (S.D. Ind. June 22, 2010) (“While Holleman’s response was late, he filed a letter with the court explaining the delay.”).

9. Accordingly, Plaintiff's Motion to Compel should be stricken, in advance of Plaintiff's ostensibly forthcoming response to Defendants' First Amended Counterclaim and subsequent dispositive motion practice.

WHEREFORE, for the foregoing reasons, the Defendants respectfully request the Court to strike Plaintiff's Motion to Compel [Dkt. 81].

Dated: October 11, 2022

Respectfully Submitted,

/s/ Adam E. Urbanczyk

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